



JOHN S. CORZINE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey State Board of Optometrists
124 Halsey Street, 6th Floor, Newark, NJ 07102



STUART RABNER
Attorney General

STEPHEN B. NOLAN
Acting Director

June 25, 2007

By Certified and Regular Mail

Gregory Fanelli, O.D.
University Executive Campus
151 Fries Mill Road, Suite 306
Turnersville, N.J. 08012

Mailing Address:
P.O. Box 45012
Newark, NJ 07101
(973) 504-6440

Re: Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Dr. Fanelli:

This letter is to advise you that the New Jersey State Board of Optometrists ("Board") has had an opportunity to review information concerning the optometric services you provided to Jeanne Gentili at your office, located in Turnersville, New Jersey on or about May 30, 2006, June 20, 2006, and September 21, 2006. Specifically, the information reviewed included the following: 1) a complaint filed with the Board by Jeanne Gentili, on or about November 2, 2006; 2) the patient records of Jeanne Gentili; and 3) the testimony that you provided at the investigative inquiry held on April 18, 2007, which you attended with your attorney, Vincent J. Morrison, Esq.

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that you violated N.J.S.A. 45:1-21(e), in that you engaged in professional misconduct for failing to diagnose a clinically significant cataract in the patient's left eye.

The Board's review has determined that the patient, Jeanne Gentili presented on or about May 30, 2006, for a yearly eye exam at which time she complained that she wasn't seeing as clearly as she would like with either her reading or distance glasses. Upon examination you determined that there was a change in her prescription and her near vision acuity was slightly decreased in the left eye as opposed to the right eye. Your examination of the cornea through the lense and into the vitreous found it to be clear. You also stated that you performed a slit lamp test, which was clear. You found no corneal opacities. You did not, however, perform a dilated examination on the patient, despite the decrease in vision with no known cause. Although you stated that you informed the patient there was a possibility of a cataract at the May 30, 2006 examination, you maintained that you did not see one and you did not document this conversation with the patient in the patient record.

On or about June 20, 2006, Mrs. Gentili returned to your office with complaints that she still could not see well. According to your testimony and the patient record, you re-examined her acuities and re-refracted her eyes and found that there was no improvement, rather, her reading vision decreased. You also determined that she wasn't seeing as well as she should be seeing, but again you found no lense opacity. Based on this information, you referred the patient to Dr. Richard Ross, an ophthalmologist. Mrs. Gentili presented to Dr. Ross on or about July 27, 2006 and he diagnosed her with a cataract in the left eye which required cataract surgery that was performed on the patient on or about August 30, 2006. Mrs. Gentili returned to your office on or about September 21, 2006 with a new eyeglasses prescription, following her cataract surgery. Your failure to properly diagnose a clinically significant cataract in the patient's left eye, which required cataract extraction in order to resolve her visual difficulty, is considered professional or occupational misconduct, in violation of N.J.S.A. 45:1-21(e).

At this juncture, the Board has preliminarily concluded that the above violation is sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceedings, should you consent to:

1. A formal reprimand for your violation of N.J.S.A. 45:1-21(e) which constitutes your failure to properly diagnose a clinically significant cataract in the patient's left eye.
2. Complete a six (6) hour anterior segment course with emphasis on the diagnosis and management of cataracts pre and post operative care, given by an accredited college of optometry and pre-approved by the Board. The course shall be taken within 90 days of your acceptance and signing of this Settlement offer. This course will not be credited toward the continuing education credits required for renewal of your license.
3. Refund to Jeanne Gentili the costs incurred for the examination, in the amount of \$128.00, and the costs incurred for the eyeglass lenses, in the amount of \$88.00 for a total reimbursement to the patient of \$216.00. A certified check or money order made payable to Jeanne Gentili should be forwarded to the Board at the address indicated in paragraph #5 upon signing of this settlement letter.
4. Pay costs incurred by the Board by certified check or money order in the amount of \$369.00 which represents investigative costs as documented in the attached certification.
5. Pay a civil penalty in the amount of \$1,000.00, for the violation of N.J.S.A. 45:1-21(e). However, this penalty will be stayed by the Board, provided that you comply with all of the provisions of this Settlement offer. In the event that you do not comply with the provisions of this Settlement offer, the amount must to be paid immediately upon the end of the 90 day period. Payment is to be made by certified check or money order and made payable to the New Jersey State Board of Optometrists and sent to the attention of the Executive Director, P.O. Box 45012, Newark, New Jersey 07101.

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of formal disciplinary action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than that herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order, requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Carmen A. Rodriguez, who may be reached at (973) 648-3636.

If you elect to settle this matter presently, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of formal disciplinary action.

NEW JERSEY STATE BOARD OF
OPTOMETRISTS

By: 
Lawrence DeMarzo
Division of Consumer Affairs

ACKNOWLEDGMENT: I, Gregory Fanelli, O.D., hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to the terms of the settlement offer, including a public reprimand, a six hour course as specified herein and reimbursement of the patient in the amount of \$216.00 and payment of costs to the Board in the amount of \$369.00 upon signing of this acknowledgment. In the event that I do not timely comply with the terms of the Settlement offer within the 90 day period, I agree to pay the stayed penalty in the amount of \$1,000.


Gregory Fanelli, O.D.

Dated: 7/6/07

cc: Vincent J. Morrison, Esq.
Carmen A. Rodriguez, Deputy Attorney General